

10/584941

TRANSLATION

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>PHM/CM/BR049573</b>	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. <b>PCT/FR2005/000307</b>	International filing date (day/month/year) <b>10.02.2005</b>	Priority date (day/month/year) <b>18.02.2004</b>	
International Patent Classification (IPC) or national classification and IPC <b>E02F3/96</b>			
Applicant <b>MONTABERT</b>			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>8</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>	
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I	Basis of the report
1.	<p>With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:</p> <p><input type="checkbox"/> international search (Rule 12.3 and 23.1(b))</p> <p><input type="checkbox"/> publication of the international application (Rule 12.4)</p> <p><input type="checkbox"/> international preliminary examination (Rule 55.2 and/or 55.3)</p> <p>2. With regard to the elements of the international application, this report is based on <i>(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)</i>:</p> <p><input type="checkbox"/> the international application as originally filed/furnished</p> <p><input checked="" type="checkbox"/> the description:</p> <p>pages <u>1-9</u> _____ as originally filed/furnished</p> <p>pages* _____ received by this Authority on _____</p> <p>pages* _____ received by this Authority on _____</p> <p><input checked="" type="checkbox"/> the claims:</p> <p>nos. <u>1-11</u> _____ as originally filed/furnished</p> <p>nos.* _____ as amended (together with any statement) under Article 19</p> <p>nos.* _____ received by this Authority on _____</p> <p>nos.* _____ received by this Authority on _____</p> <p><input checked="" type="checkbox"/> the drawings:</p> <p>sheets <u>1/5-5/5</u> _____ as originally filed/furnished</p> <p>sheets* _____ received by this Authority on _____</p> <p>sheets* _____ received by this Authority on _____</p> <p><input type="checkbox"/> a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.</p>
3.	<p><input type="checkbox"/> The amendments have resulted in the cancellation of:</p> <p><input type="checkbox"/> the description, pages _____</p> <p><input type="checkbox"/> the claims, nos. _____</p> <p><input type="checkbox"/> the drawings, sheets/figs _____</p> <p><input type="checkbox"/> the sequence listing (specify): _____</p> <p><input type="checkbox"/> any table(s) related to sequence listing (specify): _____</p>
4.	<p><input type="checkbox"/> This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).</p> <p><input type="checkbox"/> the description, pages _____</p> <p><input type="checkbox"/> the claims, nos. _____</p> <p><input type="checkbox"/> the drawings, sheets/figs _____</p> <p><input type="checkbox"/> the sequence listing (specify): _____</p> <p><input type="checkbox"/> any table(s) related to sequence listing (specify): _____</p>

\* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
1. Statement	
Novelty (N)	Claims <u>2-9</u> YES
	Claims <u>1, 10, 11</u> NO
Inventive step (IS)	Claims <u>2-9</u> YES
	Claims <u>1, 10, 11</u> NO
Industrial applicability (IA)	Claims <u>1-11</u> YES
	Claims _____ NO
2. Citations and explanations (Rule 70.7)	
1.	Reference is made to the following documents:  D1: PATENT ABSTRACTS OF JAPAN; vol. 1999, no. 09 (1999-07-30) -& JP 11 117344 A (KIBE KENSETSU KK) (1999-04-27); D2: US 4 602 821 A (SCHAEFF HANS) (1986-07-29).
2.	<u>INDEPENDENT CLAIM 1</u>
2.1	The present application does not fulfil the requirements set forth in PCT Article 33(1) because the subject matter of claim 1 does not comply with the requirement of novelty defined in PCT Article 33(2).  Document D1 describes (the references between parentheses apply to said document):  - an accessory (30), such as a bucket or a scraping blade, to be mounted on one end of a rock breaker (24 + 26) that is provided with a tool (22). Said accessory includes means (28

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	<p>and 34, 36) for properly positioning same relative to said rock breaker (24 + 26) and said tool (22), and means (28) for temporarily and releasably attaching same to the end of said rock breaker (24 + 26) without having to dismantle said tool (22).</p>
2.2	<p>It should be noted that all of the features in claim <b>1</b> are also known from document D2.</p> <p>Indeed, document D2 describes (the references between parentheses apply to said document):</p> <p>an accessory (30), such as a bucket or a scraping blade, to be mounted on one end of a rock breaker (20 + 22) that is provided with a tool (24). Said accessory includes means (28, 35-39; see also figures 1 to 5) for properly positioning same relative to said rock breaker (20 + 22) and said tool (24), and means (35, 37, 39) for temporarily and releasably attaching same to the end of said rock breaker (20 + 22) without having to dismantle said tool (24).</p>
3.	<p><u>DEPENDENT CLAIM 10</u></p>
3.1	<p>Dependent claim <b>10</b> does not contain any features which, in combination with the features of any one of the claims to which it refers, might define subject matter that fulfils the PCT requirement of</p>

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	<p>novelty (PCT Article 33(2)), for the following reasons:</p> <p>The additional features in claim 10 are known in the field in question. Document D2 discloses (see the description; column 5, lines 61-68) a prismatic coupling that prevents relative rotation between said accessory and said rock breaker.</p> <p>4. <u>INDEPENDENT CLAIM 11</u></p> <p>4.1 The present application does not fulfil the requirements set forth in PCT Article 33(1) because the subject matter of claim 11 does not comply with the requirement of novelty defined in PCT Article 33(2).</p> <p>Document D1 describes (the references between parentheses apply to said document):</p> <ul style="list-style-type: none"><li>- equipment (10) comprising a rock breaker (24 + 26) provided with such an accessory (30).</li></ul> <p>5. <u>DEPENDENT CLAIMS 2 to 5</u></p> <p>5.1 Document D1, which is considered to be the most relevant prior art, discloses an accessory (30), such as a bucket or a scraping blade, from which the subject matter of claim 2 differs in that it comprises a bottom wall having an outer surface with a guide tube that is engageable with said tool.</p> <p>It follows that the subject matter of claim 2 is</p>

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	novel (PCT Article 33(2)).
5.2	<p>The problem that the present invention is intended to solve can therefore be considered to be that of enhancing the stability of the accessory.</p> <p>The solution to this problem, as proposed in claim 2 of the present application, is considered to involve an inventive step (PCT Article 33(3)) because no such combination of features is known from, or suggested in, the prior art in order to solve this problem.</p>
5.3	<p>Claims 3, 4 and 5 are all dependent on claim 2 and, as such, therefore also fulfil the PCT requirements of novelty and inventive step.</p>
6.	<p><u>DEPENDENT CLAIM 6</u></p>
6.1	<p>Document D1, which is considered to be the most relevant prior art, discloses an accessory (30), such as a bucket or a scraping blade, from which the subject matter of claim 6 differs in that the attaching means include at least two attachment lugs mounted on the upper wall of said accessory and each provided with an eyelet, and in that a retaining bar can be inserted through said lugs and above a flange or the like on the body of said rock breaker, and then locked.</p> <p>It follows that the subject matter of claim 6 is novel (PCT Article 33(2)).</p>

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- 6.2 The problem that the present invention is intended to solve can therefore be considered to be that of easily and quickly attaching the accessory.

The solution to this problem, as proposed in claim 6 of the present application, is considered to involve an inventive step (PCT Article 33(3)) because no such combination of features is known from, or suggested in, the prior art in order to solve this problem.

7. DEPENDENT CLAIMS 7 to 9

- 7.1 Document D1, which is considered to be the most relevant prior art, discloses an accessory (30), such as a bucket or a scraping blade, from which the subject matter of claim 7 differs in that it includes an upper wall supporting a lock that is alternately movable from a locking position in which it can lock a portion of the rock breaker body, into an unlocking position in which it can release said body.

It follows that the subject matter of claim 7 is novel (PCT Article 33(2)).

- 7.2 The problem that the present invention is intended to solve can therefore be considered to be that of (manually) locking the accessory.

The solution to this problem, as proposed in claim

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	<p>7 of the present application, is considered to involve an inventive step (PCT Article 33(3)) because no such combination of features is known from, or suggested in, the prior art in order to solve this problem.</p> <p>7.3 Claims 8 and 9 are both dependent on claim 7 and, as such, therefore also fulfil the PCT requirements of novelty and inventive step.</p>